

1 ROB BONTA
Attorney General of California
2 SHAWN P. COOK
Supervising Deputy Attorney General
3 SHERONDA L. EDWARDS
Deputy Attorney General
4 State Bar No. 225404
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6296
6 Facsimile: (916) 731-2126
E-mail: Sheronda.Edwards@doj.ca.gov
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 79/25-19555

13 **IN & OUT SMOG CHECK,**
14 **LUIS A. CASTELLANOS, OWNER**
15 **9971 San Fernando Rd**
16 **Pacoima, CA 91331**

ACCUSATION

17 **Automotive Repair Dealer Registration No.**
18 **ARD 305873**
19 **Smog Check Test Only Station License No.**
20 **TC 305873**

21 **OSCAR SOTO**
22 **P.O. BOX 9792**
23 **North Hollywood, CA 91609**

24 **Smog Check Inspector License No.**
25 **EO 641525**

26 Respondents.

27 **PARTIES**

28 1. Patrick Dorais (Complainant) brings this Accusation solely in his official capacity as
the Chief of the Bureau of Automotive Repair (Bureau), Department of Consumer Affairs.

Automotive Repair Dealer

2. On or about May 23, 2023, the Bureau issued Automotive Repair Dealer Registration
Number ARD 305873 to Luis A. Castellanos dba In & Out Smog Check, (Respondent

1 Castellanos). The Automotive Repair Dealer Registration expired on May 31, 2025, and has not
2 been renewed.

3 Smog Check Test Only, Station License

4 3. On or about June 14, 2023, the Bureau issued Smog Check, Test Only License
5 Number TC 305873 to Respondent Castellanos. The Smog Check, Test Only License was due to
6 expire on May 31, 2025; however, it was cancelled on May 22, 2025.

7 STAR Station Certification

8 4. The Bureau certified In & Out Smog Check as a STAR Station. The
9 certification was issued on July 22, 2024 and was terminated on May 23, 2025.

10 Additional License Held

11 5. On or about August 14, 2024, the Bureau issued Automotive Repair Dealer
12 Registration Number ARD 309791 to Luis A. Castellanos, Owner and Responsible Managing
13 Employee, dba E S Collision Center. The Automotive Repair Dealer Registration was due to
14 expire on August 31, 2025; however, it was cancelled on April 23, 2025.

15 Smog Check Inspector

16 6. On or about November 9, 2018, the Bureau issued Smog Check Inspector License
17 Number EO 641525 to Oscar Soto (Respondent Soto). The Smog Check Inspector License was in
18 full force and effect at all times relevant to the charges brought herein and will expire on May 31,
19 2027, unless renewed.

20 Additional License Held

21 7. On or about October 23, 2017, the Bureau issued Automotive Repair Dealer
22 Registration Number ARD 288792 to Oscar Soto, Owner, dba Tusos Smog Test Only Station.
23 The Automotive Dealer Registration was due to expire on October 31, 2019; however, it was
24 revoked on September 23, 2019. Oscar Soto, Owner, dba Tusos Smog Test Only Station, was also
25 licensed as a Smog Check, Test-Only Station. That license was issued on February 12, 2018, and
26 was due to expire on October 31, 2019; however, it was revoked on September 23, 2019. Tusos
27 Smog Test Only Station was also certified as a STAR Station. The certification was issued on
28 May 4, 2018, and was terminated when the licenses were revoked on September 23, 2019.

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9. Business and Professions Code (Bus. & Prof. Code) section 118, subdivision (b), states that suspension, expiration, surrender, or cancellation of a license shall not deprive the Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

11. Health and Safety Code (Health & Saf. Code) section 44002 states, in pertinent part, that the Director has all the powers and authority granted under the Automotive Repair Act for enforcing the Motor Vehicle Inspection Program.

12. Health & Saf. Code section 44072.6 states, in pertinent part, that the expiration or suspension of a license by operation of law, or by order or decision of the Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with disciplinary action.

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(a) The director, if the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer:

...

(4) Any other conduct that constitutes fraud.

...

(6) Failure in any material respect to comply with the provisions of this chapter or regulations adopted pursuant to it.

...

(c) Notwithstanding subdivision (b), the director may suspend, revoke, or place on probation the registration for all places of business operated in this state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it.

...

(e) For purposes of this section, "fraud" includes, but is not limited to, violations of this chapter involving misrepresentations and all of the following:

(1) Any act or omission that is included within the definition of either "actual fraud" or "constructive fraud," as those terms are defined in Sections 1572 and 1573 of the Civil Code.

(2) A misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact.

(3) A promise or representation not made honestly and in good faith.

(4) An intentional failure to disclose a material fact.

(5) Any act in violation of Section 484 of the Penal Code.

14. Bus. & Prof. Code section 477 states, in pertinent part, that "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency." "License" includes certificate, registration or other means to engage in a business or profession regulated by the Bus. & Prof. Code.

15. Health & Saf. Code section 44012 states, in pertinent part, that tests at smog check stations shall be performed in accordance with procedures prescribed by the department.

16. Health & Saf. Code section 44015, subdivision (b), states that a certificate of compliance shall be issued if a vehicle meets the requirements of Health & Saf. Code section 40012.

17. Health & Saf. Code section 44032 states that qualified technicians shall perform tests of emissions control devices and systems in accordance with Health & Saf. Code section 40012.

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18. Health & Saf. Code section 44072.2 states, in pertinent part:

The director may suspend, revoke, or take other disciplinary action against a license as provided in this article if the licensee, or any partner, officer, or director thereof, does any of the following:

(a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health and Saf. Code § 44000, et seq.)] and the regulations adopted pursuant to it, which related to the licensed activities.

...

(c) Violates any of the regulations adopted by the director pursuant to this chapter.

(d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured. . . .

19. Health & Saf. Code section 44072.10 states, in pertinent part:

...

(c) The department shall revoke the license of any smog check technician or station licensee who fraudulently certifies vehicles or participates in the fraudulent inspection of vehicles. A fraudulent inspection includes, but is not limited to, all of the following:

(1) Clean piping, as defined by the department.

(2) Tampering with a vehicle emission control system or test analyzer system.

(3) Tampering with a vehicle in a manner that would cause the vehicle to falsely pass or falsely fail an inspection.

(4) Intentional or willful violation of this chapter or any regulation, standard, or procedure of the department implementing this chapter. . . .

20. Health & Saf. Code section 44072.8 states that when a license has been revoked or suspended following a hearing under this article, any additional license issued under this chapter in the name of the licensee may be likewise revoked or suspended by the director.

REGULATORY PROVISIONS

21. California Code of Regulations (CCR), title 16, section 3340.24, subdivision (c), states:

“The bureau may suspend or revoke the license of or pursue other legal action against a licensee, if the licensee falsely or fraudulently issues or obtains a certificate of compliance or a certificate of noncompliance.”

1 22. CCR, title 16, section 3340.30, subdivision (a), states that a licensed smog technician
2 shall at all times “[i]nspect, test and repair vehicles, as applicable, in accordance with section
3 44012 of the Health & Saf. Code, section 44035 of the Health & Saf. Code, and section 3340.42
4 of this article.”

5 23. CCR, title 16, section 3340.35, subdivision (c), states that a licensed smog check
6 station “shall issue a certificate of compliance or noncompliance to the owner or operator of any
7 vehicle that has been inspected in accordance with the procedures specified in section 3340.42 of
8 this article and has all the required emission control equipment and devices installed and
9 functioning correctly.”

10 24. CCR, title 16, section 3340.41 states, in pertinent part:

11 . . .

12 (b) No person shall enter any access or qualification number other than as
13 authorized by the Bureau into the EIS or OIS, nor in any way tamper with the EIS or
OIS.

14 (c) No person shall enter any vehicle identification information or emission
15 control system identification data for any vehicle other than the one being tested into
16 the EIS or OIS. Nor shall any person enter into the EIS or OIS any false information
about the vehicle being tested. . . .

17 25. CCR, title 16, section 3340.42, sets forth specific emissions test methods and
18 procedures which apply to all vehicles inspected in the State of California.

19 **COST RECOVERY**

20 26. Bus. & Prof. Code section 125.3 states, in pertinent part, that a Board may request the
21 administrative law judge to direct a licensee found to have committed a violation or violations of
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case.

24 **CALIFORNIA’S SMOG CHECK PROGRAM**

25 27. California’s Smog Check Program requires most vehicles in the State to undergo a
26 smog check inspection every two years or when the vehicle’s title is transferred.

27 28. A smog check inspection in certain Enhanced areas of the State is an Acceleration
28 Simulation Mode (ASM) test performed using an Emission Inspection System (EIS), also known

1 as a BAR 97. This is a computer based five-gas analyzer that measures Hydrocarbons (HC),
2 Carbon Monoxide (CO), Oxides of Nitrogen (NOx), Carbon Dioxide (CO²) and Oxygen (O²).
3 The first part of the test is a loaded mode test of the vehicle's tailpipe emissions on a
4 dynamometer. The vehicle's drive wheels are placed on rollers, and the vehicle is driven to
5 simulate driving conditions while the emissions are sampled by the EIS.

6 29. In Basic areas of the State, or depending on a vehicle's configuration, a similar test
7 called a Two Speed Idle test is performed, but instead of applying a load to the vehicle's drive
8 wheels with a dynamometer, the EIS measures the emissions of HC, CO, O², and CO² at idle as
9 well as 2500 revolutions per minute (rpm).

10 30. In the visual portion of a smog check, the technician inspects the emission control
11 components to verify that the required emission control devices are present and properly
12 connected.

13 31. An On-Board Diagnostics (OBD II) functional test is also performed on most 1996 to
14 1999 model year vehicles. The EIS retrieves information through the Diagnostic Link Connector
15 (DLC) from the vehicle's on-board computer about its ability to communicate, the status of the
16 I/M readiness monitors and the MIL light command. The I/M readiness monitors tell whether or
17 not the OBD II system has run a sufficient number of self-tests on the vehicle's emission and
18 engine control systems. A failure of one or more of the OBD II functional criteria, depending on
19 model year, will result in the vehicle failing its smog check inspection. In addition to reporting
20 the outcome of the OBD II functional test, the smog check inspection results also show
21 Diagnostic Trouble Codes (DTC) if there are any in the vehicle's on-board computer memory.

22 32. The inspector enters the results of the visual and functional inspections into the EIS.
23 The EIS unit makes the determination whether or not the vehicle passes the inspection based on
24 the results of the tailpipe, visual and functional tests.

25 33. The EIS is connected by internet connection to Bureau's Vehicle Information
26 Database (VID). If the vehicle passes the visual, functional and tailpipe tests, it passes the overall
27 inspection. A Certificate of Compliance is issued and transmitted electronically to the VID.

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1 Additionally, all data gathered during a Smog Check inspection, regardless of the type of
2 inspection, is transmitted to and retained in the VID.

3 34. Beginning March 9, 2015, California's Smog Check Program was updated to require
4 the use of an On-Board Diagnostic Inspection System (BAR-OIS). BAR-OIS is the smog check
5 equipment required in all areas of the State when inspecting most model-year 2000 and newer
6 gasoline and hybrid vehicles. The system consists of a certified Data Acquisition Device (DAD),
7 computer, bar code scanner, and printer. The DAD is an OBD scan tool that, when requested by
8 the BAR-OIS software, retrieves OBD data from the vehicle. All OBD data that the vehicle
9 indicates it supports is requested by the BAR-OIS software and will be retrieved. The DAD
10 connects between the BAR-OIS computer and the vehicle's DLC. The bar code scanner is used to
11 input inspector information, the vehicle identification number (VIN), and Department of Motor
12 Vehicles renewal information. The printer provides a Vehicle Inspection Report (VIR) containing
13 inspection results for motorists and a Smog Check Certificate of Compliance number for passing
14 vehicles.

15 35. During an OIS inspection, engine operating parameters are retrieved from the
16 vehicle's OBD II system and recorded to the VID. This is accomplished during the functional
17 portion of the OIS Smog Check inspection by plugging the DAD into the vehicle's DLC when
18 prompted by the OIS analyzer screen prompt. Some of the parameters recorded are:

- 19 • Engine speed in revolutions per minute (RPM)
- 20 • Throttle position as measured by a throttle position sensor (TPS) mounted onto the
21 throttle shaft. Measured in a percentage of opening from 0% at idle and near or up to 100% at full
22 throttle.
- 23 • Manifold absolute pressure as measured by a manifold air pressure sensor (MAP)
24 connected to an intake manifold source, measured in kilo pascals (kpa). Typical readings for a
25 normally aspirated vehicle as follows: 0 kpa being absolute vacuum, 25 to 45 kpa at idle, 101 kpa
26 at full throttle, same as atmospheric pressure at sea level.
- 27 • Mass air flow as measured by a mass air flow sensor (MAF) mounted in the engine's
28 air intake tract. Measured in grams per second (gps).

• Ignition timing is set by the vehicle PCM based on engine speed and load, and is measured in degrees Before Top Dead Center (BTDC).

Not all vehicles include both MAP and MAF parameters. Many vehicles will have either MAP or MAF parameters separately.

36. During normal engine operation at idle, engine speed is relatively steady around its target idle speed. With the engine idling, the TPS is steady and at or near 0%. The MAP and/or MAF readings are also steady. For the engine speed to increase, the throttle would have to be opened in order to increase airflow through the engine. The engine's management systems supply fuel and spark timing appropriate to any changes in throttle position and engine speed. An increase in throttle, measured by the TPS, which increases engine RPM, would result in a corresponding increase in MAF as well as a change in MAP. Any movement in the throttle from the idle position will result in an increase of airflow through the engine with corresponding increases RPM and MAF along with changes in MAP.

37. During an OIS Smog Check inspection, along with other visual and functional inspections, there is an OBD II query portion of the inspection. The OBD II query is performed with the engine idling and, when requested by the OIS analyzer, and an elevated or increased engine speed. The increase in engine speed is performed by the inspector by stepping on the throttle pedal or manually opening the throttle resulting in a corresponding increase in engine RPMs by allowing an increase in airflow into the engine.

38. The Bureau has become aware of methods that some Smog Check stations and Smog Check inspectors use to fraudulently issue smog certificates to vehicles that may not pass a smog check test on their own, or in some instances, are not even present during the time the test is performed. "Clean plugging" is a method by which another vehicle's OBD II system, or another source such as defeat devices, are used to generate passing data readings or diagnostic information for the purpose of fraudulently issuing smog certificates to vehicles that are not in smog compliance, and or not present for testing. Defeat devices attempt to simulate engine operation during a smog check inspection by transmitting OBD II data to the VID which has been

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1 modified or replaced entirely for the purportedly inspected vehicle during the functional portion
2 of the OIS inspection.

3 **FACTUAL ALLEGATIONS**

4 39. During the course of regular duties, a Bureau Representative accessed the Vehicle
5 Information Database (VID) and analyzed data transmitted from Respondent Castellanos from
6 May 15, 2025 through May 22, 2025. I produced copies of BAR OIS Test Details, Dynamic Data
7 Charts, and Smog Check Certificate of Compliance Sales.

8 40. A Bureau Representative conducted a detailed review of the VID data for the Smog
9 Check inspections performed at Respondent Castellano's facility which showed a pattern of
10 vehicles being certified with engine operating parameters that did not correspond to normal
11 engine operation, confirming the vehicles receiving smog certifications were not tested during the
12 OBD II functional test, which constitutes clean plugging. The representative's review of the smog
13 check activities at In & Out Smog Check confirmed ten (10) Smog Check Certificates of
14 Compliance were fraudulently issued to vehicles that were inspected by Respondent Soto.

15 **Fraudulent Inspection No. 1 – 2004 Toyota Sienna CE**

16 41. OIS Test Data for Respondent Castellanos indicated that on May 15, 2025, a 2004
17 Toyota Sienna CE, CA License #5CDQ535, was tested and smog certificate #UM319372C was
18 issued by Respondent Soto. The Dynamic PID shows between time stamps 327 and 19530, the
19 engine RPM is steady at around 650 RPM. During this time, the data shows that the throttle is
20 fluctuating erratically between 12.9% opening and 17.3% opening and the MAF is varying
21 between 2.76 grams/sec and 3.87 grams/sec. After time stamp 19781, the engine RPM is
22 increased and then held steady at around 1670 RPM. During this time, the data shows that the
23 throttle drops from 16.9% opening to 12.5% opening, rises to 14.9% opening, drops to 13.3%
24 opening, then eventually rises to 13.7% opening and the MAF is fluctuating between 3.33 grams/
25 sec and 5.03 grams/sec. The steady idle, elevated engine RPM, with the improbable TPS and
26 MAF readings do not reflect normal engine operation. The discrepancies in the OIS Test Data
27 prove the BAR-OIS DAD was not connected to the 2004 Toyota Sienna CE being certified,
28 causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Fraudulent Inspection No. 2 – 2003 Ford F150

42. OIS Test Data for Respondent Castellanos indicated that on May 15, 2025, a 2003 Ford F150, CA License #7E24894 was tested and smog certificate #UM319374C was issued by Respondent Soto. The Dynamic PID shows between time stamps 21 and 21368, the engine RPM is steady at around 750 RPM. During this time, the data shows that the throttle is fluctuating erratically between 19.2% opening and 24.3% opening and the MAF is fluctuating erratically between 3.08 grams/sec and 4.81 grams/sec. After time stamps 21597, the engine RPM is increased and then held steady at around 1770 RPM. During this time, the data shows that the throttle is fluctuating erratically between 18.8% opening and 24.3% opening and the MAF is fluctuating erratically between 2.74 grams/sec and 4.99 grams/sec. The steady idle, elevated engine RPM, with the improbable TPS and MAF readings do not reflect normal engine operation. The discrepancies in the OIS Test Data prove the BAR-OIS DAD was not connected to the 2003 Ford F150 being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Prior Smog Check Inspection

43. On June 10, 2023, another license Smog Check station performed a Smog Check Inspection on the same 2003 Ford F150, CA License #7E24894. The Dynamic PID charts and data for the 2003 Ford F150 shows that between time stamp 441 and 19950, the engine RPM is steady at around 800 RPM. During this time, the data shows that the throttle is fixed at 19.2% opening and the MAF is stable between 4.22 grams/sec and 4.27 grams/sec. After time stamp 20482, the engine RPM is increased and then held above 1310 RPM. During this time, the data shows that the throttle increases to a fixed 22.4% opening and the MAF is stable between 7.97 grams/sec and 8.13 grams/sec. The steady idle and elevated engine RPMs along with the associated throttle positions and MAF readings are characteristic and expected for normal engine operation. The throttle position and MAF readings are expected to be stable at idle and increase with the elevated engine RPM. These expected results were all present during this inspection.

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Fraudulent Inspection No. 3 – 2005 Honda CR-V LX

44. OIS Test Data for Respondent Castellanos indicated that on May 15, 2025, a 2005 Honda CR-V LX, CA License #8WJR387 was tested and smog certificate #UM319375C was issued by Respondent Soto. The Dynamic PID charts and data for the 2005 Honda CR-V LX shows that between time stamp 112 and 17123, the engine RPM is steady at around 635 RPM. During this time, the data shows that the throttle is fluctuating erratically between 12.9% opening and 18% opening and the MAP is fluctuating erratically between 19 kPa and 27 kPa. After time stamp 17426, the engine RPM is increased and then held steady at around 1745 RPM. During this time, the data shows that the throttle is fluctuating erratically between 12.5% opening and 17.3% opening and the MAP is fluctuating erratically between 17 kPa and 30 kPa. The steady idle, elevated engine RPM, with the improbable TPS and MAP readings do not reflect normal engine operation. The discrepancies in the OIS Test Data prove the BAR-OIS DAD was not connected to the 2005 Honda CR-V LX being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Fraudulent Inspection No. 4 – 2002 Honda Civic LX

45. OIS Test Data for Respondent Castellanos indicated that on May 16, 2025, a 2002 Honda Civic LX, CA License #8WZA373 was tested and smog certificate #UM319376C was issued by Respondent Soto. The Dynamic PID charts and data for the 2002 Honda Civic LX shows that between time stamp 112 and 18884, the engine RPM is steady at around 630 RPM. During this time, the data shows that the throttle is fluctuating between 7.5% opening and 11.8% opening and the MAP is fluctuating erratically between 16 kPa and 28 kPa. After time stamp 19107, the engine RPM is increased and then held at around 1525 RPM. During this time, the data shows that the throttle is fluctuating between 6.3% opening and 11.4% opening, and the MAP is fluctuating erratically between 16 kPa and 30 kPa. The steady idle, elevated engine RPM, with the improbable TPS and MAP readings do not reflect normal engine operation. The discrepancies in the OIS Test Data prove the BAR-OIS DAD was not connected to the 2002 Honda Civic LX being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Fraudulent Inspection No. 5 – 2002 Honda Civic EX

46. OIS Test Data for Respondent Castellanos indicated that on May 19, 2025, a 2002 Honda Civic EX, CA License #6RSC929 was tested and smog certificate #UM319383C was issued by Respondent Soto. The Dynamic PID charts and data for the 2002 Honda Civic EX shows that between time stamp 119 and 18135, the engine RPM is steady at around 630 RPM. During this time, the data shows that the throttle is fluctuating between 7.5% opening and 11% opening and the MAP is fixed at 96 kPa, then eventually rises to 107 kPa, drops to 98 kPa, then rises again to 99 kPa. After time stamp 18536, the engine RPM is increased and held steady at around 1850 RPM. During this time, the data shows that the throttle is fluctuating between 6.3% opening and 11% opening and the MAP is fluctuating erratically between 97 kPa and 109 kPa. The steady idle, elevated engine RPM, with the improbable TPS and MAP readings do not reflect normal engine operation. The discrepancies in the OIS Test Data prove the BAR-OIS DAD was not connected to the 2002 Honda Civic EX being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Fraudulent Inspection No. 6 – 2002 Toyota Sienna CE

47. OIS Test Data for Respondent Castellanos indicated that on May 22, 2025, a 2002 Toyota Sienna CE, CA License #6NJE484 was tested and smog certificate #UM319384C was issued by Respondent Soto. The Dynamic PID charts and data for the 2002 Toyota Sienna CE shows that between time stamp 247 and 16176, the engine RPM is steady at around 730 RPM. During this time, the data shows that the throttle is fluctuating between 6.3% opening and 11.4% opening and the MAF is fluctuating between 0.26 grams/sec and 2.42 grams/sec. After time stamp 16526, the engine RPM is increased then held steady at around 1625 RPM. During this time, the data shows that the throttle is fluctuating between 6.7% opening and 11% opening, and the MAF is fluctuating between 0.56 grams/sec and 2.48 grams/sec. The steady idle, elevated engine RPM, with the improbable TPS and MAF readings do not reflect normal engine operation. The discrepancies in the OIS Test Data prove the BAR-OIS DAD was not connected to the 2002 Toyota Sienna CE, being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

1 Prior Smog Check Inspection

2 48. On September 20, 2022, another licensed Smog Check station performed a Smog
3 Check Inspection on the same 2002 Toyota Sienna CE, CA License #6NJE484. The Dynamic
4 PID charts and data for the 2002 Toyota Sienna CE shows that between time stamp 878 and
5 63002, the engine RPM is steady at around 705 RPM. During this time, the data shows that the
6 throttle is fixed at 11.4% opening and the MAF is steady between 2.85 grams/sec and 2.86
7 grams/sec. After timestamp 63877 the engine RPM is held steady at around 1645 RPM. During
8 this time, the data shows that the throttle is fixed at 14.1% opening and the MAF is steady
9 between 7.03 grams/sec and 7.1 grams/sec. The steady idle and elevated engine RPMs along with
10 the associated throttle positions and MAF readings are characteristic and expected for normal
11 engine operation. The throttle position and MAF readings are expected to be stable at idle and at
12 the elevated engine RPM. These expected results were all present during this inspection.

13 Fraudulent Inspection No. 7 – 2007 Nissan Frontier Crew Cab LE

14 49. OIS Test Data for Respondent Castellanos indicated that on May 22, 2025, a 2007
15 Nissan Frontier Crew Cab LE, CA License #91968W was tested and smog certificate
16 #UM319385C was issued by Respondent Soto. The Dynamic PID charts and data for the 2007
17 Nissan Frontier Crew Cab LE shows that between time stamp 186 and 20016, the engine RPM is
18 steady at around 660 RPM. During this time, the data shows that the throttle is fixed at 2%
19 opening, drops to 1.2% opening, rises to 2% opening, then drops to 0.4% opening and the MAF is
20 fixed at 4.15 grams/sec, drops to 4.02 grams/sec, then rises to 4.66 grams/sec. After time stamp
21 20493, the engine RPM is increased then held steady at around 1940 RPM. During this time, the
22 data shows that the throttle is fluctuating between 1.2% opening and 5.5% opening, and the MAF
23 is fluctuating between 2.95 grams/sec and 4.6 grams/sec. The steady idle, elevated engine RPM,
24 with the improbable TPS and MAF readings do not reflect normal engine operation. The
25 discrepancies in the OIS Test Data prove the BAR-OIS DAD was not connected to the 2007
26 Nissan Frontier Crew Cab LE, being certified, causing the issuance of a fraudulent Smog Check
27 Certificate of Compliance.

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Fraudulent Inspection No. 8 – 2005 Toyota Corolla CE

50. OIS Test Data for Respondent Castellanos indicated that on May 22, 2025, a 2005 Toyota Corolla CE, CA License #5PIZ814 was tested and smog certificate #UM319387C was issued by Respondent Soto. The Dynamic PID charts and data for the 2005 Toyota Corolla CE shows that between time stamp 132 and 19682, the engine RPM is steady at around 800 RPM. During this time, the data shows that the throttle drops from 18.4% opening to 14.5% opening, rises to 17.3% opening, then drops to 16.9% opening, and the MAF is fluctuating between 0.46 grams/sec and 2.39 grams/sec. After time stamp 20083, the data shows the engine RPM is increased and then held at no less than 2002 RPM. During this time, the data shows that the throttle is fluctuating between 12.9% opening and 16.5% opening and the MAF rises from 0.68 grams/sec to 2.13 grams/sec, drops to 1.93 grams/sec, then ultimately rises to 2.46 grams/sec. The steady idle, elevated engine RPM, with the improbable TPS and MAF readings do not reflect normal engine operation. The discrepancies in the OIS Test Data prove the BAR-OIS DAD was not connected to the 2005 Toyota Corolla CE, being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

Fraudulent Inspection No. 9 – 2002 Honda Odyssey EXL

51. OIS Test Data for Respondent Castellanos indicated that on May 22, 2025, a 2002 Honda Odyssey EXL, CA License #4XTD613 was tested and smog certificate #UM319389C was issued by Respondent Soto. The Dynamic PID charts and data for the 2002 Honda Odyssey EXL shows that between time stamp 135 and 17672, the engine RPM is steady at around 710 RPM. During this time, the data shows that the throttle is fluctuating between 7.1% opening and 10.6% opening and the MAP is fluctuating between 98 kPa and 109 kPa. After time stamp 17898, the engine RPM is increased and then held at around 1880 RPM. During this time, the data shows that the throttle drops from 8.6% opening to 7.8% opening, eventually rises to 11% opening, then drops to 6.3% opening, and the MAP is fluctuating between 98 kPa and 107 kPa. The steady idle, elevated engine RPM, with the improbable TPS and MAP readings do not reflect normal engine operation. The discrepancies in the OIS Test Data prove the BAR-OIS DAD was not connected to

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1 the 2002 Honda Odyssey EXL, being certified, causing the issuance of a fraudulent Smog Check
2 Certificate of Compliance.

3 Fraudulent Inspection No. 10 – 2005 Toyota Camry LE

4 52. OIS Test Data for Respondent Castellanos indicated that on May 22, 2025, a 2005
5 Toyota Camry LE, CA License #5MLM685 was tested and smog certificate #UM319392C was
6 issued by Respondent Soto. The Dynamic PID charts and data for the 2005 Toyota Camry LE
7 shows that between time stamp 137 and 15341, the engine RPM is steady at around 675 RPM.
8 During this time, the data shows that the throttle drops from 18% opening to 16.5% opening, rises
9 to 17.6% opening, then drops to 12.5% opening, and the MAF rises from 0.46 grams/sec to 2.29
10 grams/sec, then drops to 0.43 gams/sec. After time stamp 15765, the engine RPM is increased and
11 then held at around 1750 RPM. During this time, the data shows that the throttle is fluctuating
12 erratically between 12.9% opening and 18% opening, and the MAF is fluctuating erratically
13 between 0.41 grams/sec and 2.35 grams/sec. The steady idle, elevated engine RPM, with the
14 improbable TPS and MAF readings do not reflect normal engine operation. The discrepancies in
15 the OIS Test Data prove the BAR-OIS DAD was not connected to the 2005 Toyota Camry LE,
16 being certified, causing the issuance of a fraudulent Smog Check Certificate of Compliance.

17 ***Respondent Castellanos***

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Untrue of Misleading Statements)**

20 53. Respondent Castellano's Automotive Repair Dealer Registration is subject to
21 disciplinary action pursuant to Bus. & Prof. Code section 9884.7, subdivision (a)(1), in that he
22 made statements which were known to be untrue or misleading or, which by exercise of
23 reasonable care should have been known to be untrue or misleading, by issuing electronic smog
24 certificates of compliance for the ten (10) vehicles set forth in paragraphs 39-52 above, certifying
25 that those vehicles were in compliance with applicable laws and regulations when, in fact, those
26 vehicles had not been so inspected. Complainant refers to, and by this reference incorporates, the
27 allegations contained in paragraphs 39-52, above, as though set forth fully herein.

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a. **Section 44012:** Respondent failed to ensure that the emission control tests were performed on the ten (10) vehicles identified in paragraphs 39-52, above, in accordance with procedures prescribed by the department.

b. **Section 44015, subdivision (b)**: Respondent issued electronic smog certificates of compliance to the ten (10) vehicles identified in paragraphs 39-52, above, without properly testing and inspecting those vehicles to determine if they were in compliance with Health & Saf. Code section 44012.

Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 39-52, above, as though set forth fully herein.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)

57. Respondent Castellano's Smog Check Test Only Station License is subject to disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he failed to comply with provisions of California Code of Regulations, title 16, as follows:

a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued electronic smog certificates of compliance for the ten (10) vehicles identified in paragraphs 39-52, above.

b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the ten (10) vehicles identified in paragraphs 39-52, above, in accordance with Health & Saf. Code sections 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

c. **Section 3340.35, subdivision (c):** Respondent issued electronic smog certificates of compliance for the ten (10) vehicles identified in paragraphs 39-52, above, even though those vehicles had not been inspected in accordance with section 3340.42.

d. **Section 3340.42:** Respondent failed to ensure that the smog inspections conducted on the ten (10) vehicles identified in paragraphs 39-52 above, were done in accordance with the Bureau's specifications.

Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs 39-52, above, as though set forth fully herein.

1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud, or Deceit)**

3 58. Respondent Castellano's Smog Check Test Only Station License is subject to
4 disciplinary action pursuant to Health & Saf. Code section 44072.2, subdivision (d), in
5 conjunction with Health & Saf. Code section 44072.10, subdivision (c), in that he committed
6 dishonest, fraudulent, or deceitful acts whereby another was injured by issuing electronic smog
7 certificates of compliance for the ten (10) vehicles described in paragraphs 39-52, above, without
8 performing bona fide inspections of the emission control devices and systems on those vehicles,
9 thereby depriving the People of the State of California of the protection afforded by the Motor
10 Vehicle Inspection Program. Complainant refers to, and by this reference incorporates, the
11 allegations contained in paragraphs 39-52, above, as though set forth fully herein.

12 ***Respondent Soto***

13 **SEVENTH CAUSE FOR DISCIPLINE**

14 **(Violations of the Motor Vehicle Inspection Program)**

15 59. Respondent Soto's Smog Check Inspector License is subject to disciplinary action
16 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that he failed to comply with
17 the following sections of that code:

18 a. **Section 44032:** Respondent failed to perform tests of emission control devices and
19 systems of the ten (10) vehicles identified in paragraphs 39-52, above, in accordance with Health
20 & Saf. Code section 44012.

21 b. **Section 44015, subdivision (b):** Respondent caused electronic smog certificates of
22 compliance to be issued for the ten (10) vehicles identified in paragraphs 39-52, above, without
23 ensuring that they were properly tested and inspected to determine if they were in compliance
24 with Health & Saf. Code section 44012.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant to the Motor Vehicle Inspection Program)**

3 60. Respondent Soto's Smog Check Inspector License is subject to disciplinary action
4 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that he failed to comply with
5 provisions of California Code of Regulations, title 16, as follows:

6 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued
7 electronic smog certificates of compliance for the ten (10) vehicles identified in paragraphs 39-
8 52, above.

9 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test the ten (10)
10 vehicles identified in paragraphs 39-52, above, in accordance with Health & Saf. Code sections
11 44012 and 44035, and California Code of Regulations, title 16, section 3340.42.

12 c. **Section 3340.41, subdivision (c):** Respondent knowingly entered false information
13 into the on-board diagnostic inspection system for the ten (10) vehicles identified in paragraphs
14 39-52, above.

15 d. **Section 3340.42:** Respondent failed to ensure that the smog inspections conducted
16 on the ten (10) vehicles identified in paragraphs 39-52, above, were done in accordance with the
17 Bureau's specifications.

18 **NINTH CAUSE FOR DISCIPLINE**

19 **(Dishonesty, Fraud, or Deceit)**

20 61. Respondent Soto's Smog Check Inspector License is subject to disciplinary action
21 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in conjunction with Health &
22 Saf. Code section 44072.10, subdivision (c), in that he committed dishonest, fraudulent, or
23 deceitful acts whereby another was injured by issuing electronic smog certificates of compliance
24 for the ten (10) vehicles identified in paragraphs 39-52, above, without performing bona fide
25 inspections of the emission control devices and systems on those vehicles, thereby depriving the
26 People of the State of California of the protection afforded by the Motor Vehicle Inspection
27 Program.

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1 **DISCIPLINARY CONSIDERATIONS**

2 62. To determine the degree of discipline, if any, to be imposed on Respondent Soto,
3 Complainant alleges that on or about September 23, 2019, in the matter of the Accusation against
4 Tusos Smog Test Only Station, Respondent Soto, owner, Case No. 79/18-10227, the Stipulated
5 Revocation of License and Order became effective. The accusation alleges seven (7) fraudulent
6 Smog Check Certificates of Compliance was issued via the "Clean Plugging" method.

7 Respondent Soto admitted to the truth of each charge in Accusation No. 79/18-10227 and agreed
8 to the revocation of his Automotive Repair Dealer Registration and Smog Check Station License.

9 63. To determine the degree of discipline, if any, to be imposed on Respondent Soto,
10 Complainant alleges that on or about July 3, 2019, Oscar Soto dba Tusos Smog Test Only Station
11 was issued Citation No. C2019-1659. Respondent Soto denied the Bureau access to Tusos Smog
12 Test Only Station in violation with Health & Saf. Code section 44050. The citation was dismissed
13 on October 20, 2019.

14 **OTHER MATTERS**

15 64. Pursuant to Code section 9884.7, subdivision (c), the director may suspend, revoke,
16 or place on probation the registrations for all places of business operated in this state by In & Out
17 Smog Check, Luis A. Castellanos, owner, upon a finding that it has, or is, engaging in a course of
18 repeated and willful violation of the laws and regulations pertaining to an automotive repair
19 dealer.

20 65. Pursuant to Health & Saf. Code section 44072.8, when a license has been revoked or
21 suspended following a hearing under this article (Division 26, Part 5, Chapter 5, Article 7 of the
22 Health & Saf. Code), any additional license issued under this chapter in the name of the licensee,
23 Oscar Soto, may be likewise revoked or suspended by the director.

24 **PRAYER**

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
26 and that following the hearing, the Director of the Department of Consumer Affairs issue a
27 decision:

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- 1 1. Revoking or suspending Automotive Repair Dealer Registration Number ARD
- 2 305873, issued to In & Out Smog Check, Luis A. Castellanos;
- 3 2. Revoking or suspending any other automotive repair dealer registration issued to Luis
- 4 A. Castellanos;
- 5 3. Revoking or suspending Smog Check, Test Only License Number TC 305873, issued
- 6 to In & Out Smog Check, Luis A. Castellanos;
- 7 4. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
- 8 Division 26 of the Health & Saf. Code in the name of Luis A. Castellanos;
- 9 5. Revoking or suspending Smog Check Inspector License Number EO 641525, issued
- 10 to Oscar Soto;
- 11 6. Revoking or suspending any additional license issued under Chapter 5 of Part 5 of
- 12 Division 26 of the Health & Saf. Code in the name of Oscar Soto;
- 13 7. Ordering Luis A. Castellanos and Oscar Soto to pay the Bureau of Automotive Repair
- 14 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
- 15 Professions Code section 125.3 and if placed on probation, the costs of probation monitoring;
- 16 and,
- 17 8. Taking such other and further action as deemed necessary and proper.

18
19 DATED: As of Digital Signature Date

Dorais,

Patrick@DCA

PATRICK DORAIS

Chief

Bureau of Automotive Repair

Department of Consumer Affairs

State of California

Complainant

Digitally signed by Dorais,
Patrick@DCA

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